

AMENDED IN ASSEMBLY JUNE 26, 2003

AMENDED IN SENATE JUNE 2, 2003

AMENDED IN SENATE MAY 1, 2003

SENATE BILL

No. 376

Introduced by Senator Chesbro

February 19, 2003

An act to amend Section 2401 of, and to add Section 2401.1 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 376, as amended, Chesbro. Healing arts.

Existing law, the Medical Practice Act, restricts the employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity, subject to specified exemptions.

This bill would exempt a hospital owned and operated by a health care district, as defined, from ~~these restrictions on the employment of licensed physicians and surgeons and podiatrists,~~ *employing a physician and surgeon pursuant to a pilot project that would be established by the bill*, if the hospital does not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon. ~~The bill would also exempt a qualified hospital district from the restrictions on employment of a physician and surgeon, if the hospital district satisfies specified criteria.~~ *The pilot project would authorize the direct employment of a total of 20 physicians and surgeons, as determined by the Medical Board of California, by qualified district hospitals, as defined. The bill would specify that each qualified district hospital could employ up to 2 physicians and surgeons, subject to specified requirements.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. The Legislature finds and declares the~~
2 ~~following:~~

3 ~~(a) Due to the large number of uninsured and underinsured~~
4 ~~Californians and the inadequate reimbursement rates from both~~
5 ~~governmental and private payers, a number of California~~
6 ~~communities are having great difficulty recruiting and retaining~~
7 ~~physicians and surgeons.~~

8 ~~(b) In order to recruit physicians and surgeons to provide~~
9 ~~medically necessary services in rural and medically underserved~~
10 ~~communities, many district hospitals have no viable alternative~~
11 ~~but to directly employ physicians and surgeons in order to provide~~
12 ~~economic security adequate for them to relocate and reside in these~~
13 ~~communities.~~

14 ~~(c) The Legislature intends that a district hospital meeting the~~
15 ~~conditions set forth in this act be able to employ physicians and~~
16 ~~surgeons directly and to charge for their professional services.~~
17 ~~Prior to employment of a physician and surgeon under this act, the~~
18 ~~medical executive committee and the elected trustees of the district~~
19 ~~hospital shall both concur that the employment of the physician~~
20 ~~and surgeon is in the best interests of the communities served by~~
21 ~~the hospital.~~

22 ~~(d) The Legislature reaffirms that Section 2400 of the Business~~
23 ~~and Professions Code provides an increasingly important~~
24 ~~protection for patients and physicians and surgeons from~~
25 ~~inappropriate intrusions into the practice of medicine, and further~~
26 ~~intends that a district hospital not interfere with, control, or~~
27 ~~otherwise direct the professional judgment of a physician and~~
28 ~~surgeon.~~

29 ~~SEC. 2.~~

30 ~~SECTION 1.~~ Section 2401 of the Business and Professions
31 Code is amended to read:

32 2401. (a) Notwithstanding Section 2400, a clinic operated
33 primarily for the purpose of medical education by a public or
34 private nonprofit university medical school, which is approved by
35 the Division of Licensing or the Osteopathic Medical Board of

California, may charge for professional services rendered to teaching patients by licensees who hold academic appointments on the faculty of the university, if the charges are approved by the physician and surgeon in whose name the charges are made.

(b) Notwithstanding Section 2400, a clinic operated under subdivision (p) of Section 1206 of the Health and Safety Code may employ licensees and charge for professional services rendered by those licensees. However, the clinic shall not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 or any other provision of law.

(c) Notwithstanding Section 2400, a narcotic treatment program operated under Section 11876 of the Health and Safety Code and regulated by the State Department of Alcohol and Drug Programs, may employ licensees and charge for professional services rendered by those licensees. However, the narcotic treatment program shall not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 or any other provision of law.

(d) Notwithstanding Section 2400, a hospital owned and operated by a health care district pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code may employ a licensee *pursuant to Section 2401.1*, and may charge for professional services rendered by the licensee, if the physician and surgeon in whose name the charges are made approves the charges. However, the hospital shall not interfere with, control, or otherwise direct the physician and surgeon's professional judgment in a manner prohibited by Section 2400 or any other provision of law.

~~SEC. 3. Section 2401.1 is added to the Business and Professions Code, to read:~~

~~2401.1. (a) Notwithstanding Section 2400, a qualified district hospital that satisfies all of the conditions set forth in subdivision (b), may employ a licensee and charge for professional services rendered by the licensee if the licensee in whose name the charges are made approves the charges. The qualified district hospital shall not interfere with, control, or otherwise direct the physician's and surgeon's professional judgment in a manner prohibited by Section 2400 or any other provision of law.~~

~~(b) A qualified district hospital may employ a licensee only if the following conditions are satisfied:~~

~~(1) The medical executive committee and the elected board of trustees of the qualified district hospital by a majority vote of each body, concur that the employment of the licensee is in the best interests of the communities served by the hospital.~~

~~(2) A written employment contract with the licensee is entered into or renewed prior to December 31, 2006, and the contract term does not exceed four years.~~

~~(3) The total number of licensees employed by the qualified district hospital does not exceed five at any one time.~~

~~(4) The qualified district hospital has notified the board that the medical executive committee approved the employment of a licensee by the hospital.~~

~~(c) For purposes of this section, a “qualified district hospital” shall be organized and governed pursuant to the Local Health Care District Law (Division 23 (commencing with Section 32000) of the Health and Safety Code), provide at least 50 percent of its total patient days to Medicare, Medi-Cal, and uninsured patients, and satisfy at least one of the following conditions:~~

~~(1) Be located in a county having a total population of less than 750,000.~~

~~(2) Have net losses from operations as reported to Office of Statewide Health Planning and Development in excess of one million dollars (\$1,000,000) incurred in two consecutive years occurring on or after the 2000 year.~~

~~(3) Provides services in a community meeting the criteria for designation as a Health Professional Shortage Area.~~

~~(4) Provides services for a population meeting the criteria for designation as a medically underserved area.~~

~~(5) Designation as a critical access hospital.~~

SEC. 2. Section 2401.1 is added to the Business and Professions Code, to read:

2401.1. (a) The Legislature finds and declares as follows:

(1) Due to the large number of uninsured and underinsured Californians and inadequate reimbursement rates from both governmental and private payers, a number of California communities are having great difficulty recruiting and retaining physicians and surgeons.

1 (2) *In order to recruit physicians and surgeons to provide*
2 *medically necessary services in rural and medically underserved*
3 *communities, many district hospitals have no viable alternative*
4 *but to directly employ physicians and surgeons in order to provide*
5 *economic security adequate for a physician and surgeon to*
6 *relocate and reside in their communities.*

7 (3) *The Legislature intends that a district hospital meeting the*
8 *conditions set forth in this section be able to employ physicians and*
9 *surgeons directly, and to charge for their professional services.*

10 (4) *The Legislature reaffirms that Section 2400 of the Business*
11 *and Professions Code provides an increasingly important*
12 *protection for patients and physicians and surgeons from*
13 *inappropriate intrusions into the practice of medicine, and further*
14 *intends that a district hospital not interfere with, control, or*
15 *otherwise direct a physician and surgeon's professional judgment.*

16 (b) *A pilot project to provide for the direct employment of a*
17 *total of 20 physicians and surgeons by qualified district hospitals*
18 *is hereby established in order to improve the recruitment and*
19 *retention of physicians and surgeons in rural and other medically*
20 *underserved areas.*

21 (c) *For purposes of this section, a qualified district hospital*
22 *means a hospital that meets all of the following requirements:*

23 (1) *Is a district hospital organized and governed pursuant to*
24 *the Local Health Care District Law (Division 23 (commencing*
25 *with Section 32000) of the Health and Safety Code).*

26 (2) *Provides a percentage of care to Medicare, Medi-Cal, and*
27 *uninsured patients that exceeds 50 percent of patient days.*

28 (3) *Is located in a county with a total population of less than*
29 *750,000.*

30 (4) *Has net losses from operations in fiscal year 2000-01, as*
31 *reported to the Office of Statewide Planning and Development.*

32 (d) *In addition to the requirements of subdivision (c), and in*
33 *addition to other applicable laws, a qualified district hospital may*
34 *directly employ a licensee if all of the following conditions are*
35 *satisfied:*

36 (1) *The total number of physicians and surgeons employed by*
37 *all qualified district hospitals under this section, as determined by*
38 *the board, does not exceed 20.*

39 (2) *The medical staff and the elected trustees of the qualified*
40 *district hospital concur by an affirmative vote of each body that the*

1 *physician and surgeon's employment is in the best interest of the*
2 *communities served by the hospital.*

3 *(3) The licensee enters into or renews a written employment*
4 *contract with the qualified district hospital prior to December 31,*
5 *2006, for a term not in excess of four years. The contract shall*
6 *provide for mandatory dispute resolution under the auspices of the*
7 *board for disputes directly relating to the licensee's clinical*
8 *practice.*

9 *(4) The total number of licensees employed by the qualified*
10 *district hospital does not exceed two at any time.*

11 *(5) The qualified district hospital notifies the board that the*
12 *hospital has entered into a written contract with the licensee, and*
13 *the board has confirmed that the licensee's employment is within*
14 *the maximum number permitted by this section.*

